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IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
IN AND FOR UTAH COUNTY, STATE OF UTAH

DOUBLE D ASSOCIATES, a Utah
General Partnership,

Plaintiff,

v.

EAST RIVER BOTTOM WATER COMPANY,
GREGORY KING, THOMAS G. ROGERS,
STANLEY H. ROBERTS, JR., Provo
River Water Commissioner, and
JOHN DOES 1-10,

Defendants.

**ANSWER OF STANLEY H.
ROBERTS, JR., PROVO RIVER
WATER COMMISSIONER**

Civil No. 940400189

Honorable Guy Burningham

Stanley H. Roberts, Jr., Provo River Water Commissioner (the "Commissioner") answers the Complaint as follows:

FIRST DEFENSE

The Complaint should be dismissed for failure to state a claim against the Commissioner upon which relief can be granted. There is no cause of action under law or under the terms of the 1921

Morse Decree by which the Commissioner can be held liable for the actions alleged in Count I or Count II. The Commissioner is already under obligation to distribute water according to the orders, judgments, and decrees of this Court. The Complaint against the Commissioner should, therefore, be dismissed for failure to state a claim.

SECOND DEFENSE

The Commissioner answers the numbered paragraphs of the Complaint as follows:

Count I

1. Paragraphs 1 through 20 include a cause of action brought by the Plaintiff-Shareholder against the Defendant-Water Company wherein the Shareholder asks this Court for an order directing the Water Company to sign a temporary change application. In addition, Count I raises allegations which are limited to causes of action between the Shareholder and the Water Company. The causes of action in Count I are not brought against the Commissioner.

2. The prayer for relief asks for an order directing the Commissioner to reduce the amount of water diverted to defendant. The Commissioner will carry out any order of this Court which directs him to distribute a certain amount of water at a certain point of diversion for a certain time period. It is not necessary

to join the Commissioner in this action for the purpose of directing the Commissioner with an Order. The Morse Decree already instructs the Commissioner to act under the Court's direction. The Commissioner is bound and will follow any order duly entered by this Court.

3. The Commissioner is not required to answer paragraphs 1 through 20, but should any allegation be directed against the Commissioner, each and every allegation is denied.

Count II

4. Paragraphs 21 through 37 represent a cause of action for damages against the other named defendants. The prayer for relief specifically excludes the Commissioner from any liability. The Commissioner is not required to answer paragraphs 21 through 37, but should any allegation be directed against the Commissioner, each and every allegation is denied.

THIRD DEFENSE

As a separate affirmative defense, the Commissioner alleges he has the duty to distribute the waters as awarded in the Morse Decree (see ¶ 126 of Decree in Provo Reservoir Co. v. Provo City, et al., Utah County Civil No. 2888). But, pursuant to the second subparagraph of paragraph 131 of the Morse Decree, the Commissioner may change the quantity of water distributed upon proper petition

to the Court from any party and upon any subsequent order from this Court.

FOURTH DEFENSE

As a separate affirmative defense, the Plaintiff-Shareholder lacks standing to ask this Court for an order directing the Commissioner to reduce the quantity of water diverted into the Defendant-Company's canal. Under the specific terms of the Morse Decree, only a party or its successor in interest may petition this Court for a change in the quantity of water awarded. The Plaintiff is not a party in the Morse Decree or a successor in interest and, therefore, lacks standing.

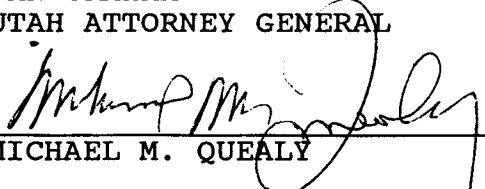
FIFTH DEFENSE

As a separate affirmative defense, Plaintiff lacks standing as a general matter of law to allege non-use of a water right which will result in no benefit to the Plaintiff, but will in fact be detrimental to the interests of the Plaintiff-Shareholder by devaluing Plaintiff's own shares in the Company.

WHEREFORE, the Commissioner asks that the Commissioner be dismissed as a defendant in this action and for such other relief as the Court shall deem just and proper.

DATED this 3rd day of May, 1994.

JAN GRAHAM
UTAH ATTORNEY GENERAL



MICHAEL M. QUEALY



JOHN H. MABEY, JR.
Assistant Attorneys General

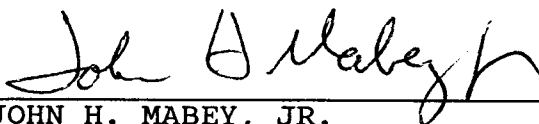
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CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of May, 1994, a true and correct copy of the foregoing ANSWER OF STANLEY H. ROBERTS, JR., PROVO RIVER WATER COMMISSIONER was served by mailing the same, first-class postage prepaid, addressed as follows:

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